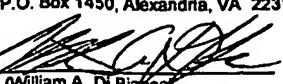


I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 22, 2009      Signature:   
(William A. Di Bianca)



Docket No.: SPINE 3.0-437 CIPCIIPCIPCIPCON II  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Errico et al.

Application No.: 10/784,637

Filed: February 23, 2004

For: INSTRUMENTATION FOR PROPERLY  
SEATING AN ARTIFICIAL DISC IN AN  
INTERVERTEBRAL SPACE

09/21/2009 GARIAS 00000003 121095 10784637

01 FC:1462 400.00 DA  
02 FC:1454 1410.00 DA  
Confirmation No.: 8185

Art Unit: 3738

Examiner: B. E.  
Pellegrino

Adjustment date: 09/21/2009 GARIAS  
01/27/2009 MBELETE1 00000003 121095 10784637  
03 FC:1464 130.00 CR

PETITION UNDER 37 C.F.R. § 1.78(a)(3)  
TO CORRECT PRIORITY INFORMATION

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

01/27/2009 MBELETE1 00000003 10784637  
03 FC:1464 130.00 DA

Dear Madam:

09/21/2009 GARIAS 00000002 121095 10784637  
01 FC:1461 130.00 DA

I. SUMMARY

This petition is submitted to correct the priority information in U.S. Patent Application 10/784,637 ("the '637 application"). In particular, the relationship information, in the original filing on February 23, 2004, for the applications from which benefit is claimed is believed to be incorrect as it did not specify the relationship to the prior applications and thus correction is sought. The petition fee set forth in 37 C.F.R. § 1.17(t) of \$1,400.00 is provided herewith.

Petitioner submits that the Domestic Priority Data as stated in the Filing Receipt (mailed May 19, 2004) is incorrect. Petitioner requests that the Domestic Priority Data be revised.

03 FC:1464 130.00 DA

Adjustment date: 09/21/2009 GARIAS  
01/27/2009 MBELETE1 00000003 121095 10784637  
03 FC:1464 130.00 CR

Application No.: 10/784,637  
Docket No.: SPINE 3.0-437 CIPCIPCIPCIPCIPCON II

**III. NATURE OF PETITION**

Petitioner respectfully submits this petition in connection with the correction of domestic priority, asserting that the delay by Petitioner in submitting the correct priority data to the USPTO, from the time the claim was due and the date the claim was filed, was unintentional.

For the good cause shown, it is respectfully requested that the instant Petition be granted and the priority corrected as shown in the amendments to the Cross-Reference to Related Applications paragraph of the specification included in an Amendment filed on October 31, 2007, and in the "Initial" Application Data Sheet and Request for Corrected Filing Receipt filed today.

The Director is hereby authorized to charge our Deposit Account No. 12-1095 to cover the fee set forth in 37 C.F.R. § 1.17(t). If there are any additional charges in connection with this requested Petition, please charge Deposit Account No. 12-1095 therefor.

Dated: January 22, 2009

Respectfully submitted,

By   
William A. Di Bianca  
Registration No.: 58,653  
LERNER, DAVID, LITTBENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicants